DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/22/2009 has been entered. Claims 1-29 are cancelled. Claims 30-53 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of

35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 30-39 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzberg et al. (EP 0717337 and Herzberg hereinafter) in view of Holliman et al. (US Patent Publication No. 2002/0116533 and Holliman hereinafter).

3. As to claims 30, 35, 38 and 53, Herzberg teaches a computer-implemented method of controlling playback of digital content by a playback device, the method comprising:

receiving data including the digital content (i.e., ...teaches receiving data multimedia programs [800, fig. 8; col. 6, lines 46-52], first data processing instructions (i.e., ...teaches a first portion comprising the media content and tables [col. 6, lines 46-52]), and second data processing instructions (i.e., signature token [col. 8, lines 5-15]), the first data processing instructions corresponding to the digital content (i.e., ...teaches a first portion comprising the media content and tables [col. 6, lines 46-52]), the second data processing instructions, when executed by a computer language interpreter of the playback device, configuring the computer language interpreter to request an access to a memory of the playback device [col. 16, lines 5-15];

and executing the first data processing instructions by using the computer language interpreter, the first data processing instructions configuring the

computer language interpreter to (i.e., ...teaches when the multimedia title is to be executed [col. 6, lines 40-60]):

obtain a cryptographic value (e.g., "so-obtained hash value reference") of the second data processing instructions (i.e., .. teaches obtaining value for comparison purposes [col. 9, lines 10-15]);

determine an authenticity of the second data processing instructions by using the cryptographic value (i.e., ... teaches authenticity is determined by comparison means [col. 9, lines 50-59]);

based on the authenticity, performing a first operation selected from a first group consisting of: inhibiting playback of at least a portion of the digital content (i.e., .. teaches based on a non-authenticated result halting processing (i.e., inhibit playing) [col..14, lines 20-25]), and enabling the access (e.g., allow data reading) by the computer language interpreter (i.e., run time environment) to the memory of the playback device during execution of the second data processing instructions (i.e., .. teaches if successful then allow data reading from storage means (e.g., memory, CD-ROM) [col. 14, lines 25-40]).

Herzberg does not explicitly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of computer language interpreter used in a playback device environment was well known and would have been an obvious modification of Herzberg as disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Herzberg ability to control content playback, a person having ordinary skill in the art would recognize the advantage of modifying Herzberg to enable application support with the well known feature of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

4. As to claims 31 and 36, Herzberg teaches a computer-implemented method of where the first data processing instructions, in configuring the computer language interpreter to determine the authenticity, configure the computer language interpreter to perform a second operation selected from a second group consisting of:

comparing the cryptographic value to a reference value stored in the memory (i.e., … teaches authenticity is determined by comparison means [col. 9, lines 50-59]), and verifying a digital signature corresponding to at least one of the first data processing instructions or the second data processing instructions (i.e., … teaches verifying a digital signature [col. 14, lines 15-35]).

5. As to claims 32 and 39, Herzberg teaches a computer-implemented method of where the receiving of the data includes receiving at least some of the data from a media drive or via a network [fig. 3].

6. As to claim 33, Herzberg teaches a computer-implemented method further comprising storing information in the memory, the information representing at least one of: a payment referencing the digital content, a history of pay-per-view payments, a counter value, a duration of access, a spending limit, a pricing discount, a permission level, a privilege level, a security policy, a software update of the playback device, third data processing instructions to obtain the software update, a cryptographic key, or a digital signature (i.e., ... teaches the use of cryptographic key and digital signature [col. 13, lines 35-45]).

7. As to claims 34 and 37, Herzberg teaches a computer-implemented method of where the first data processing instructions, in configuring the computer language interpreter (i.e., run time environment), to inhibit the playback, configure the computer language interpreter (i.e., run time environment) to perform a third operation selected from a third group consisting of: preventing the playback, disabling a rendering of the portion of the digital content, communicating an error message, communicating a first request to receive authentication data, communicating a second request to initiate an upgrade of the playback device, disabling a decryption of the portion of the digital content, and restricting the playback to a reduced quality level less than a maximum quality level of the digital content (i.e., .. .teaches rendering no notification [col. 15, lines 39-41]).

Herzberg does not explicitly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of a computer language interpreter used in a playback device environment was well known and would have been an obvious modification of Herzberg as disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Herzberg ability to control content playback, a person having ordinary skill in the art would recognize the advantage of modifying Herzberg to enable application support with the well known feature of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

8. Claims 40-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kocher et al. (US Patent No. 6,289, 455 and Kocher hereinafter) in view of Holliman.

9. As to claims 40 and 51, Kocher teaches an apparatus comprising: a media interface to receive digital content and first data processing instructions (i.e., …teaches playback devices receives content [col. 9, lines 15-20]), the first data processing instructions corresponding to the digital content [col. 9, lines 15-20];

determine a security risk (e.g., audit process) of the apparatus (i.e., .. teaches accessing security [col. 12, lines 15-25]);

identify second data processing instructions as a software countermeasure associated with the security risk, the identifying being based on the security risk [col. 11, lines 30-40];

and initiate an execution of the second data processing instructions on the apparatus [col. 4, lines 14-20].

Kocher does not expressly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of a computer language interpreter used in a playback device environment was well known and would have been an obvious modification of Kocher as disclosed by Holliman. Holliman discloses:

a computer language interpreter communicatively coupled to the media interface, the computer language interpreter to execute the first data processing instructions, the first data processing instructions configuring the computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Kocher ability to assess security in a playback environment, a person having ordinary skill in the art would recognize the advantage of modifying Kocher to enable application support with the well known feature of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

10. As to claim 41, Kocher teaches a computer-implemented method where the second data processing instructions include a specific instruction encoded as native code of the playback device (i.e., ... teaches receiving code updates [col.24, lines 50-65]).

11. As to claim 42, Kocher teaches a computer-implemented method of where the first data processing instructions, configure the computer language interpreter to determine an authenticity of the second data processing instructions [520, fig. 5].

Kocher does not explicitly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of a computer language interpreter used in a playback device environment was well known and would have been an obvious modification of Kocher as disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a person having ordinary skill in the art would recognize the advantage of modifying Kocher to enable application support with the well known feature of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

12. As to claim 43, Kocher teaches a computer-implemented method of where the first data processing instructions, in configuring the computer language interpreter (i.e., playback device) to determine (e.g., audit process) the security risk, configure the computer language interpreter to detect a presence of unauthorized software on the playback device (i.e., … teaches an audit process for determining risk related issues such as unauthorized code [col. 12, lines 15-25]).

Kocher does not explicitly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of a computer language interpreter used in a playback device environment was well known and would have been obvious modification of Kocher as disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a person having ordinary skill in the art would recognize the advantage of modifying Kocher to enable application support with the well known feature of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

13. As to claim 44, Kocher teaches a computer-implemented method of where the first data processing instructions, configure the computer language interpreter (i.e., playback device) to initiate a reception of at least some of the second data processing instructions from a media drive or via a network (i.e., … teaches reception via network [col. 9, lines 10-15[).

Kocher does not explicitly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of a computer language interpreter used in a playback device environment was well known and would have been an obvious modification of Kocher as disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a person having ordinary skill in the art would recognize the advantage of modifying Kocher to enable application support with the well known feature of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

14. As to claim 45, Kocher teaches a computer-implemented method where the second data processing instructions, when executed on the playback device

[col. 9, lines 15-20], configure the playback device to modify at least some of the digital content with a forensic mark (e.g., control message) [col. 9, lines 20-21]).

15. As to claims 46 and 52, Kocher teaches a optical medium comprising: digital content [col. 8, lines 20-30];

and first data processing instructions corresponding to the digital content (i.e., … teaches receiving digital content [col. 9, lines 15-20]), the first data processing instructions (e.g., code), when executed by a computer language interpreter of a playback device (i.e., ... teaches receiving code updates [col.24, lines 50-65]), configuring the computer language interpreter to:

determine a security risk (e.g., audit process) of the apparatus (i.e., .. teaches accessing security [col. 12, lines 15-25]);

identify second data processing instructions as a software countermeasure associated with the security risk, the identifying being based on the security risk [col. 11, lines 30-40];

and initiate an execution of the second data processing instructions on the apparatus [col. 4, lines 14-20].

Kocher does not explicitly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of a computer language interpreter used in a playback device environment was well known and would have been an obvious modification of Kocher as disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a person having ordinary skill in the art would recognize the advantage of modifying Kocher to enable application support with the well known feature of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

16. As to claim 47, Kocher teaches a optical medium where the second data processing instructions include a specific instruction encoded as native code of the playback device (i.e., ... teaches receiving code updates [col.24, lines 50-65]).

17. As to claim 48, Kocher teaches a optical medium where the first data processing instructions, when executed by the computer language interpreter (i.e., playback device), configure the computer language interpreter to determine an authenticity of the second data processing instructions [520, fig. 5].

Kocher does not explicitly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of a computer language interpreter used in a playback device environment was well

known and would have been an obvious modification of Kocher as disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a person having ordinary skill in the art would recognize the advantage of modifying Kocher to enable application support with the well known feature of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

18. As to claim 49, Kocher teaches a optical medium where the first data processing instructions, in configuring the computer language interpreter (i.e., playback device) to determine (e.g., audit process) the security risk, configure the computer language interpreter to detect a presence of unauthorized software on the playback device (i.e., … teaches an audit process for determining risk related issues such as unauthorized code [col. 12, lines 15-25]).

Kocher does not explicitly teach applicant's computer language interpreter claim limitation element. However at the time of applicant's original filing, the feature of a computer language interpreter used in a playback device environment was well known and would have been an obvious modification of Kocher as disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a person having ordinary skill in the art would recognize the advantage of modifying Kocher to enable application support with the well known features of a script language interpreter (e.g., computer language interpreter) as disclosed by Holliman.

19. As to claim 50, Kocher teaches a optical medium where the second data processing instructions, when executed on the playback device [col. 9, lines 15-20], configure the playback device to modify at least some of the digital content with a forensic mark (e.g., control message) [col. 9, lines 20-21]).

Response to Arguments

Applicant's arguments with respect to claims 30-53 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN WRIGHT whose telephone number is (571)270-3826. The examiner can normally be reached on 8:30 am - 5:30 pm Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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